



DAG/TPA

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Arradon on May 25, 2009

RECEIVED

JUN 04 2009

OFFICE OF PETITIONS

Application 08/809,620

Mail Stop Comments-Patents  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**Subject :**

**A - CFR 1.121(c) : Obstacle to the exercise of rights given by Clause 8, Section 8, Article First, of the Constitution of September 17, 1787.**  
**B - Call of PTO on April 24, 2009, about 06/07 o'clock Alexandria time**  
**C - What is the best ?**  
**D - A brilliant idea ?**  
**E - In an other hand...**

**A - CFR 1.121(c) : to eliminate applications or to beat applicants for expensive attorneys ?**

**1) Introduction** - Since almost 3 years my application 08/809,620 is stoped by procedure problems.

In the last amendment, I had kept 5 claims.

But the Examiner says do not can enter these claims because lack of good identifiers in these 5 claims numbers, as well as in the previous and canceled ones, of course, a claim identifier being absolutly out of the merit of the invention.

The Examiner invites me to take an attorney.

But use a very expensive attorney to put the good identifiers on 5 claims seems to me, very little entity, totally disproportionate !

I seems to me that the Examiner does not want, does not can or does not know, use CFR 1.121(g) which allows to Examiners to amend themself these identifiers in general interest, as well of PTO than applicants.

In this situation, the Rule 1.121(c) seems to be an indirect method to eliminate an application outside of the merit of this application, or to beat applicants for expensive attorneys, and so an obstacle to the exercise of rights given by Clause 8, Section 8, Article First, of the Constitution of September 17, 1787.

**2) Office Action on 04/30/2008** - This Office action, which is a big work, sums up 2 1/2 years, since 07/12/06.

The main object is lack of good procedure concerning the claims.

There is also a matter about substitute specification, page 3, paragraph 3, alinea First, which is not correct because I have sent, and even several times, the statement whose the lack is reproached.

Idem page 4, alinea Third, for drawings, where I do not understand the Examiner.

To eliminate problems with statement no new matter, and problems with drawings, I send relating documents :

My amendments on 07/17/06.  
My amendments on 10/10/08  
My amendments on 10/24/08

In this way, we see that all the Office Action on 04/30/08 is mainly for problems of claims identifiers.

So, in this Office Action on 04/30/08, the Examiner says simply that my work since 07/12/06 is not good, and not entered, mainly for lack of good identifiers for in fact 5 claims, **without to say to me why these identifiers are not, under Rule 1.121(c), according to his opinion, the good identifiers.**

**B – Call of PTO on April 24, 2009, about 12/13 o'clock French time**  
**Bibliographic Data, Transaction History and Image File Wrapper**  
I see today 05/23/2009 for Status : Non Final Action Mailed on 04-30-2008.

For Transaction History I see also today :

05/12/2009 Mail Examiner Interview Summary (PTOL – 413)  
05/01/2009 Examiner Interview Summary Record (PTOL – 413)

And in Image File Wrapper :

05/12/2009 EXIN Examiner Interview Summary Record (PTOL-413)

**In EXIN on 05/12/2009, about an alleged call phone on 01/05/2009 one can read :**  
*Sheet 4 – Continuation sheet – Application 08/809,620 :*

*Continuation of Substance of Interview including description of the general nature of what was agreed to if agreement was reached, or any other comments : Mr. Ward explained to Vernois that Mr. Ward was not the Examiner, but was translating in French for Ms. Anthony what was required to prosecution of this case. Mr. Ward and Ms. Anthony explained (in French) to Vernois that in order to continue examining the application, Applicant needed to submit a new set of claims and a fee for 5 month extension of time to make the Amendment timely and compliant with the rule 1.121. Vernois responded by saying that he would submit the new set of claims (by fax) and pay the fee.*

I am very astonished in 3 ways.

**First, that a call from PTO on 04/24/2009, about 12/13 o'clock French hour, is not filed on Image File Wrapper, or inaccurately dated in EXIN PTOL-413 as 01/05/2009.**

In this call on 04/24/2009, two employees of PTO, (M. Paul V. WARD, Art Unit 1624, and Ms. Gloria ANTHONY, Technology center 1600 ?) (these names according EXIN on May 12), asked for Claims Listing (or new claims, or new sending of former claims ?), a request for 5 month Extension time, and a **FAST Payment by Credit Card of 1175\$ by fax to PTO fax 571 273 0200, without Office Action.**

The thing which had particularly surprised me in this very early hour (Alexandria time), was the request for an almost immediate sending of payment of 1175\$ by credit card to fax at unknown 571 273 0200 fax.

**Second, that my fax sent for reply on 04/25/2009, at 01h56 in night, to PTO fax 571 273 0200 is not on Transaction History, while a fax on 04/27/2009 is.**

This fax on 04/27/2009 to Madam Cassandra Spyrou, Technical Center 2800, was to send to her documents in relation with the call on April 24.

In a previous e-mail to Madam Spyrou I had expressed my surprise for this call, and this enquiry for 1175\$ without Office Action, and Madam Spyrou had reply to me by e-mail that **nobody of the Technical Center 2800 had called to me.**

**Third,**

- a) that I have never say that I should submit a new set of claims, for the obvious reason that, without Office Action, I do not know what for a new set of claims;
- b) that I have never say that I should pay 1175\$ by Credit Card Form, for the obvious reason that, without Office Action, I did not see the reason of the 5 month extension of time.

**C - What is the best ?**

I think that it is good to have Rules to make easier the work of PTO employees and inventors, under the condition that these Rules are clear, or at least, easily explainable by an examiner if they are interpretable.

It is obvious that CFR 1.121(c) is interpretable, and probably that the PTO and the Attorneys have agreed to an interpretation, but this is not a reason to pay an expensive attorney to solve a so tiny and quasi artificial problem.

If a rule is good written, an examiner must be able to explain it in a few words, and a work of a few minutes, and, of course, give an example, to allow the inventors to be able to give the good identifiers in all the claims .

But, in this case, the Examiner does not say why, according to his opinion, my identifiers were not the good ones, in view of interpretable Rule 1.121(c).

All is as if the Examiner does not know himself interpretate Rule to choose the good identifiers, and refers me to an attorney.

In this case, I see that the Examiner have done a big work only for 5 claims identifiers, while these identifiers are outside of the merit of the invention, and, of course, do not introduce strictly any ambiguity likely to cause legal problems with other inventors.

**Whereas PTO asks on April 24 for FAST payment of 1175\$ by call, at 6/7 morning o'clock Alexandria time, without Office Action, and maintains on May 12 in EXIN PTOL-413 that this call was on May 01 and that I had agree with this payment when I had only say that I understood that it was said.**

(After reading the EXIN Examiner Interview Summary, filed on May 12, for an alleged call on 01/05, I have understand that it was perhaps asked was a set of new claims, and not a new set of the former claims, as I have faxed to 571 273 0200, on April 25, at 1h56 in the night).

**What is the best ?**

Give bad (???) identifiers under interpretable Rule 1.121(c), outside the merite of the invention, or ask urgently for payment 5 months extension time by Credit Card of 1175\$ at 6/7 o'clock, without Office Action for these 5 months extension time, and more, send the Credit Card Form to unknown employees and to an unknown fax 571 273 0200 ?

**D - A brilliant idea** - I have seen in MPEP 700 - page 238 - II Manner of making amendments under 37CFR 1.121, the brilliant idea which leaded to 37CFR 1.121 revised on June 30, 2003.

...//...The manner of making amendments has been revised to assist in the implementation of beginning-to-end electronic image processing of patent applications. Specifically, changes have been made to facilitate electronic image data capture and processing and streamline the patent application process....//...

I respectfully think that if this brilliant idea is a bit useful for PTO, it is very stressing for Examiners (who beat applicants to attorneys), a lot penalizing for inventors, but a megalot

beneficial for attorneys's business (who can, (only the ones who are bad citizens, of course), give this trivial, but subtle work to clever Indian workers at 150\$ a month).

I respectfully also remind that the PTO is mainly for Inventors, and very incidentally for Attorneys, and not the opposite.

But I admit that a such brilliant idea makes very difficult the work of the examiners who become proceedings hard workers (at 150\$ a month ?) for many tiny minor problems, more than engineers.

Although 37CFR 1.121(g) allows to examiners to amend claims to give the good identifiers, these examiners sometimes have themselves a doubt about these good identifiers. To avoid a possible conflict with attorneys, they prefer then do not use Rule 1.121(g), and beat applicants to these attorneys.

**Or better,**

- a) perhaps these Examiners do work-to-rule for protest silently against this additional uncertain and interpretable procedure work, outside of their rigorous engineer work.
- b) some patriot Examiners do not want see many dollars paid as royalties to foreign inventors...

If I understand perfectly these examiners, I respectfully think that the work of the examiners is not to beat customers for attorneys, but perhaps I have not understood the new mechanism of the PTO, under June 30, 2003.

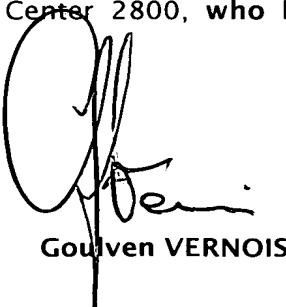
**I ask for** that the PTO gives directives in view of the end of these artificial and expensive problems, detrimental to PTO's image, putting under stress the Examiners, prohibitively expensive for inventors, but so beneficial to attorneys's business!

And more, which put up artificial obstacles to the exercise of the Rights given to Inventors (I, under PCT Act) by **Constitution of September 17, 1787.**

**E - In an other hand**, and to solve my problems, I have sent on **May 6** an one sheet fax (571 273 8300) to **Inventors Assistance Center**, but I do not have had reply, perhaps this Inventors Assistance Center being strictly reserved to US Inventors.

**To finish on a positive note**, in an other application 09/117,194, filed after the one 08/809,620, and which is the intellectual continuation of this one, I have had a patent granted 6,676,262 on January 13, 2004.

For this application, I keep a very good acquaintance with two examiners, Cassandra Spyrou and Mark Robinson, Technical Center 2800, who have given to me a very good and professional image of PTO.



Gouven VERNOIS

Attached pieces :

- (0) Office Action mailed on April 30, 2008
- (1) and (1a) My amendments on 07/17/06
- (2) and (2a) My amendments on 10/10/08
- (3) My amendments on 10/24/08
- (4) My reply to call on April 24, 2009
- (5) Fax to Inventors Assistance Center on May 6, 2009



06/05/09-19:52

US 08/809,620 (TE20090506)  
Inventors Assistance Center

Date : Wednesday May 6, 2009

To : Inventors Assistance Center  
Via fax 571 273 8300

From : Goulven VERNOIS  
8, sentier des Laminaires  
56610 ARRADON  
France  
Tel 33 2 97 44 07 11  
Fax 33 2 97 61 11 27  
[vernois.5678@wanadoo.fr](mailto:vernois.5678@wanadoo.fr)



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Application 08/809,620

OFFICE OF PETITIONS

Subject : CFR 1.121(c)  
Claims not entered for failure to CFR 1.121(c)

Since almost 3 years my application is stoped by procedure problems.  
In the last amendment I have keeped 5 claims.  
But the Examiner does not can enter this claims because lack of good  
identifiers in claims numbers.

The Examiner invites me to take an attorney.  
But use a very expensive attorney to put the good identifiers on 5 claims  
seems to me, very little entity (micro entity!), totally disproportionate!

I think that the Inventors Assistance Center has vocation to solve these  
problems.

I have filed an other application on the same optical subject, space  
membranous mirror, but with an other Examiner, and my patent had  
been granted without these problems (application 09/117,194 - patent  
6,676,262).

Can you solve my problem ?  
What for documents I must sent to you ?  
By fax or by mail post ?  
It is Madam Cassandra Spyrou, Technical Center 2800, who very kindly  
recommended to me to see you.

Truly Yours

Goulven VERNOIS

06/05/09-19:52

US 08/809,620 (TE20090506)  
Inventors Assistance Center

08 08/809,620

24/04/09

RAPPORT DE CONTROLE DE TRANSMISSION

HEURE : 25/04/2009 01:56  
NOM : VERNOIS GOULVEN  
FAX : +33297611127  
TEL : +33297440711  
SER. # : G01234567890

DATE, HEURE  
NUMERO/NOM FAX  
DUREE  
PAGE(S)  
RESULT  
MODE

25/04 01:55  
0015712730200  
00:00:55  
02  
OK  
STANDARD

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25/04/09-01:40

US 08/809,620 (TE20090424)  
Reply to phone call 04/24/09

Date : April 24, 2009

To : ????????? Mr Thong Q.Nguyen ??????  
Mr. Phone Caller To Day ??????  
Art Unit 2872

Via Fax 571 273 0200

From : Goulven VERNOIS  
8, sentier des Laminaires  
56610 ARRADON  
France

Tel 33 2 97 44 07 11  
Fax 33 2 97 61 11 27  
[vernois.5678@wanadoo.fr](mailto:vernois.5678@wanadoo.fr)

Application 08/809,620

Subject : Your request for

- 1) Claims Listing
- 2) 5 months Extension of Time
- 3) Fees for Extension of Claims Time

Dear Sir,

I thank you for your phone call on morning today.

1) Claims Listing



US 08/809,620 (TE20090424)  
Reply to phone call 04/24/09

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JUN 04 2009

**OFFICE OF PETITIONS**

Date : April 24, 2009

To : ????????? Mr Thong Q.Nguyen ??????  
Mr. Phone Caller To Day ??????  
Art Unit 2872

Via Fax 571 273 0200

From : Goulven VERNOIS  
8, sentier des Laminaires  
56610 ARRADON  
France

Tel 33 2 97 44 07 11  
Fax 33 2 97 61 11 27  
[vernois.5678@wanadoo.fr](mailto:vernois.5678@wanadoo.fr)

Application 08/809,620

Subject : Your request for  
1) Claims Listing  
2) 5 months Extension of Time  
3) Fees for Extension of Claims *Time*

Dear Sir,

I thank you for your phone call on morning today.

**1) Claims Listing**

I have faxed the claims listing asked.

This claims listing is the same that the one sended by fax 571 273 8300 on 10/24/2008 as a reply to Office Action Mailed on 04/30/2008.

I SEE, on Translation History printed today 04/24/2009 :

10/10/2008 Substitute Specification Filed  
10/10/2008 New or Additional Drawing Filed  
10/06/2008 Miscellaneous Incoming Letter  
09/19/2008 Request for Extension of Time - Granted  
04/30/2008 Mail Miscellaneous Communication to Applicant

I do not see my fax on 10/24/2008 Claims Listing

**I SEE, on Bibliographic Data printed today 04/24/2009 :**

**Status : Non Final Action Mailed**  
**Status Date : 04/30/2008**  
**Location : ELECTRONIC**

**2) Extension of Time**

**I have read "37 CFR 1.136 Extension of Time".**

**I do not understand why you call for 5 months Extension of Time.**

**There is not Office Action since the one on 04/30/2008, to which I have answered on 09/19/2008, with Request for Extension of Time, Request Granted.**

**It is not possible to fill in Form PTO/SB/22, neither under 37 CFR 1.136(a), nor 1.136(b), because a lack of Office Action.**

**3) Fees and payment**

**It is not possible to fill in Form PTO-2038 by lack of matter for section "Description of Request and Payment Information".**

**Dear Sir, I think that you had good reasons to call to me this morning, but, after examination of the problem, I can not reply totally to you.**

**Truly Yours**



**Goulven VERNOIS**